

Department of Energy

§ 727.5

**PART 727—CONSENT FOR ACCESS
TO INFORMATION ON DEPART-
MENT OF ENERGY COMPUTERS**

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AUTHORITY: 42 U.S.C. 7101, *et seq.*; 42 U.S.C. 2011, *et seq.*; 50 U.S.C. 2425, 2483; E.O. No. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333; and E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391.

SOURCE: 71 FR 40884, July 19, 2006, unless otherwise noted.

§ 727.1 What is the purpose and scope of this part?

(a) The purpose of this part is to establish minimum requirements applicable to each individual granted access to a DOE computer or to information on a DOE computer, including a requirement for written consent to access by an authorized investigative agency to any DOE computer used in the performance of the individual's duties during the term of that individual's employment and for a period of three years thereafter.

(b) Section 727.4 of this part also applies to any person who uses a DOE computer by sending an e-mail message to such a computer.

§ 727.2 What are the definitions of the terms used in this part?

For purposes of this part:

Authorized investigative agency means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

Computer means desktop computers, portable computers, computer networks (including the DOE network and local area networks at or controlled by

DOE organizations), network devices, automated information systems, or other related computer equipment owned by, leased, or operated on behalf of the DOE.

DOE means the Department of Energy, including the National Nuclear Security Administration.

DOE computer means any computer owned by, leased, or operated on behalf of the DOE.

Individual means an employee of DOE or a DOE contractor, or any other person who has been granted access to a DOE computer or to information on a DOE computer, and does not include a member of the public who sends an e-mail message to a DOE computer or who obtains information available to the public on DOE Web sites.

User means any person, including any individual or member of the public, who sends information to or receives information from a DOE computer.

§ 727.3 To whom does this part apply?

(a) This part applies to DOE employees, DOE contractors, DOE contractor and subcontractor employees, and any other individual who has been granted access to a DOE computer or to information on a DOE computer.

(b) Section 727.4 of this part also applies to any person who uses a DOE computer by sending an e-mail message to such computer.

§ 727.4 Is there any expectation of privacy applicable to a DOE computer?

Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986), no user of a DOE computer shall have any expectation of privacy in the use of that DOE computer.

§ 727.5 What acknowledgment and consent is required for access to information on DOE computers?

An individual may not be granted access to information on a DOE computer unless:

(a) The individual has acknowledged in writing that the individual has no expectation of privacy in the use of a DOE computer; and

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(b) The individual has consented in writing to permit access by an authorized investigative agency to any DOE computer used during the period of that individual's access to information on a DOE computer and for a period of three years thereafter.

§ 727.6 What are the obligations of a DOE contractor?

(a) A DOE contractor must ensure that neither its employees nor the employees of any of its subcontractors has access to information on a DOE computer unless the DOE contractor has obtained a written acknowledgment and consent by each contractor or subcontractor employee that complies with the requirements of § 727.5 of this part.

(b) A DOE contractor must maintain a file of original written acknowledgments and consents executed by its employees and all subcontractors employees that comply with the requirements of § 727.5 of this part.

(c) Upon demand by the cognizant DOE contracting officer, a DOE contractor must provide an opportunity for a DOE official to inspect the file compiled under this section and to copy any portion of the file.

(d) If a DOE contractor violates the requirements of this section with regard to a DOE computer with Restricted Data or other classified information, then the DOE contractor may be assessed a civil penalty or a reduction in fee pursuant to section 234B of the Atomic Energy Act of 1954 (42 U.S.C. 2282b).

PART 733—ALLEGATIONS OF RESEARCH MISCONDUCT

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AUTHORITY: 42 U.S.C. 2201; 7254; 7256; 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*

SOURCE: 70 FR 37014, June 28, 2005, unless otherwise noted.

10 CFR Ch. III (1–1–11 Edition)

§ 733.1 Purpose.

The purpose of this part is to set forth a general statement of policy on the treatment of allegations of research misconduct consistent with Federal Policy on Research Misconduct established by the White House Office of Science and Technology Policy on December 6, 2000 (65 FR 76260–76264).

§ 733.2 Scope.

This part applies to allegations of research misconduct with regard to scientific research conducted under a Department of Energy contract or an agreement.

§ 733.3 Definitions.

The following terms used in this part are defined as follows:

Contract means an agreement primarily for the acquisition of goods or services that is subject to the Federal Acquisition Regulations (48 CFR Chapter 1) and the DOE Acquisition Regulations (48 CFR Chapter 9).

DOE means the U.S. Department of Energy (including the National Nuclear Security Administration).

DOE Element means a major division of DOE, usually headed by a Presidential appointee, which has a delegation of authority to carry out activities by entering into contracts or financial assistance agreements.

Fabrication means making up data or results and recording or reporting them.

Falsification means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

Financial assistance agreement means an agreement the primary purpose of which is to provide appropriated funds to stimulate an activity, including but not limited to, grants and cooperative agreements pursuant to 10 CFR Part 600.

Finding of research misconduct means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a significant departure from